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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

6 * * *

7 UNITED STATES OF AMERICA,)

8 Plaintiff,)

9 vs.)

10 SANTIAGO H. RODRIGUEZ-APARICIO,)

11)
12 Defendant.)
13

2:09-CR-00060-PMP-PAL

ORDER

14 This matter is scheduled to commence trial some time during the week of
15 July 27, 2010. Before the Court for consideration is Defendant's Motion in Limine
16 (Doc. #59) which seeks to exclude evidence at trial:

- 17 1. Any alleged threats made by Mr. Rodriguez-Aparicio to
18 Officer Goodrich P#9198;
19 2. Any hypothesis and any evidence that would support
20 the hypothesis that Mr. Rodriguez-Aparicio was going to carry
21 out any threat to Officer Goodrich or his family;
22 3. The photographs in discovery depicting Rodriguez-
23 Aparicio and other individuals' tattoos; and
24 4. Any inference or supporting evidence that Rodriguez-
25 Aparicio is or was involved in a gang.
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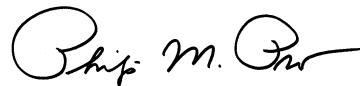
1 In response to Defendant's motion (Doc. #63), Plaintiff United States
2 represents that it does not intend to introduce evidence of Defendant's gang
3 membership in its case in chief. However, the Government does intend to introduce
4 photographs of Defendant taken at the scene of his arrest for purposes of
5 identification, to show perspiration on his shirt corroborating Defendant's attempt to
6 flee arresting officers, and to establish alterations in the appearance of Defendant
7 between the time of his arrest and his appearance at the time of trial. Additionally,
8 the Government represents that it will seek to introduce threats allegedly made by the
9 Defendant to arresting Officer Goodrich as reflecting a consciousness of guilt.

10 On July 7, 2010, the Court conducted a hearing on Defendant's motion in
11 limine. At that time, counsel for Plaintiff United States produced the photographs
12 taken of the Defendant at the time of his arrest (Exhibits 1-9), and indicated that
13 during its case in chief the Government would seek only to offer photographic
14 Exhibits 1-4. Defendant persists in their objection to photographic Exhibit 2 because
15 it displays a tattoo on the left side of Defendant's neck which suggest affiliation with
16 a gang. Although the Court does not agree that the tattoo depicted in photographic
17 Exhibit 2 in fact reflects a gang affiliation, the Court finds that photographic Exhibits
18 1, 3 and 4 are entirely sufficient to satisfy the purposes for which the Government
19 seeks admission of photographic exhibits of the Defendant's appearance at the time
20 of his arrest.

21 **IT IS THEREFORE ORDERED** that Defendant's Motion in Limine
22 (Doc. #59) is **GRANTED** to the extent it seeks to exclude from evidence during the
23 Government's case in chief at trial photographic Exhibits 2, 5, 6, 7, 8 and 9. To the
24 extent Defendant's Motion in Limine (Doc. #59) seeks to exclude photographic
25 Exhibits 1, 3 and 4 from introduction at trial in the Government's case in chief, said
26 motion is **DENIED**.

1 **IT IS FURTHER ORDERED that** Defendant's Motion in Limine is
2 **DENIED** to the extent that it seeks to exclude from the evidence from the
3 Government's case in chief testimony regarding alleged threats made by Defendant
4 Santiago H. Rodriguez-Aparicio to Officer Goodrich. In connection with the
5 introduction of such evidence, the Court will entertain counsels request for a limited
6 instruction regarding the purposes for which the jury may consider such evidence as
7 suggested in the Government's Proposed Limiting Instruction (Doc. #65) filed July
8 12, 2010.

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10 DATED: July 23, 2010.

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13 PHILIP M. PRO
14 United States District Judge
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